

REMARKS

This paper responds to the Office Action dated May 13, 2009. No claims are amended, canceled, or added. As a result, claims 1-7, 9-19, 21-29, 31-36, and 39-45 remain pending in this application.

§ 103 Rejection of the Claims

Claims 1-4, 7, 9, 13-16, 19, 21, 23-26, 29, 31, 35, 39-41, and 44 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden et al. (U.S. Publication No. 2003/0036964, hereinafter; “Boyden”) in view of Dicker et al. (U.S. Publication No. 2003/0105682, hereinafter; “Dicker”). *Office Action* at 6.

Claims 5-6 and 17-18 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Grefenstette et al. (U.S. Patent No. 6,928,425, hereinafter; “Grefenstette”). *Office Action* at 21.

Claims 10 and 22 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Maze et al. (U.S. Patent No. 6,216,264, hereinafter; “Maze”). *Office Action* at 24.

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Ortega et al. (U.S. Publication No. 2003/0036964, hereinafter; “Ortega”). *Office Action* at 25.

Claims 27-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Grefenstette. *Office Action* at 26-17.

Claim 32 was rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Maze. *Office Action* at 28.

Claims 33-34 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Ortega. *Office Action* at 29.

Claim 36 was rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Bezos et al. (U.S. Patent No. 6,029,141, hereinafter, “Bezos”). *Office Action* at 30.

Claims 42-43 were rejected under 35 U.S.C. § 103(a) as being obvious over Boyden in view of Dicker and further in view of Sick et al. (U.S. Publication No. 2003/0216971, hereinafter, “Sick”). *Office Action* at 31.

Applicable Law

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103, the prior art reference (or references when combined) must teach or suggest every limitation of the claim.¹

Claims 1-4, 7, 9, 13-16, 19, 21, 23-26, 29, 31, 35, 39-41 and 44

With respect to claim 1, the Examiner stated that Boyden fails to teach “providing information to present the plurality of similar listings and the attribute data to the seller,” “generating a proposed listing to present to the seller, the proposed listing including listing data from the selected similar listing.” Specifically, the Examiner admitted that “Boyden does not explicitly teach the claimed limitation “a plurality of similar listings; from the plurality of similar listings; from the selected similar listing; receiving a category selection from a seller; verifying the category supports automated generation for proposed listings.”² The Examiner found such teaching in Dicker.³ While Applicants agree that the claim limitations are not taught or suggested in Boyden, Applicants respectfully disagree with the Examiner that these limitations are found in Dicker.

¹ *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA, 1974). MPEP §2143.

² Office Action dated May 13, 2009, at 9.

³ Office Action dated May 13, 2009, at 10.

The Dicker reference teaches a recommendation service that locates other related products,⁴ wherein the related products are those that a user may find of interest given the user's profile. Dicker does not teach or suggest presentation of similar listings. The Dicker system provides a list of other products for a buyer to purchase; Dicker does not present similar listings which a seller may use to generate a listing. Furthermore, while the teaching of Dicker does teach "a plurality of similar listings," Dicker does not teach a "selected similar listing." Therefore, application of the teachings of Dicker to the techniques of Boyden cannot result in Applicants' claimed invention as Boyden and Dicker fail to teach each and every element of claim 1.

The arguments provided with respect to claim 1 are also applicable to independent claims 13 and 23, as well as to those claims depending thereon. Applicant respectfully requests reconsideration and allowance of these claims.

Claims 5-6 and 17-18

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Grefenstette reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 5-6 and 17-18 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

⁴ Dicker, ¶52.

Claims 10 and 22

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Maze reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 10 and 22 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

Claims 11-12

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Ortega reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 11 and 12 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

Claims 27-28

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Grefenstette reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 17 and 28 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

Claim 32

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Maze reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claim 32 is patentable over the applied references. Applicants respectfully request reconsideration and allowance of claim 32.

Claims 33-34

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Ortega reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 33 and 34 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

Claim 36

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Bezos reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claim 36 is patentable over the applied references. Applicants respectfully request reconsideration and allowance of claim 36.

Claims 42-43

As discussed above with respect to claim 1, Boyden and Dicker fail to satisfy each and every limitation of the base claim on which these claims depend. The Sick reference fails to satisfy the deficiencies of Boyden and Dicker. Therefore, Applicants respectfully assert that claims 42 and 43 are patentable over the applied references. Applicants respectfully request reconsideration and allowance of these claims.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersign at (206) 420-2534 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(206) 420-2534

Sandra L. Godsey

Date 14 September 2009

By _____
Sandra L. Godsey
Reg. No. 42,589

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of September, 2009.

Chris Bartl
Name

C. Bartl
Signature